

Notice of Allowability	Application No. 10/749,907	Applicant(s) ANTOINETTE VAN DE ZANDE ET AL.	
	Examiner Stacy B. Chen	Art Unit 1648	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/22/06.
2. ☒ The allowed claim(s) is/are 1,4-6,9-11 and 13-16.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>12/22/06</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Art Unit: 1648

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on December 22, 2006 has been entered.

Reasons For Allowance

2. The following is an examiner's statement of reasons for allowance:

The IDS filed December 22, 2006 is acknowledged and a copy of the PTO/SB/08B is attached to the Notice of Allowability. The reference cited in the IDS, Thompson et al. (91st Annual Meeting Abstracts hosted by the University of Delaware, August 11-14, Poscal 80, Supplement 1, 2002, page 160, "Thompson") has been considered and is addressed below.

The claims are drawn to a method of propagating an avian reovirus on Vero cells comprising the following steps:

- a) Inoculate a Vero cell with the avian reovirus without prior adaptation,
- b) Allow the avian reovirus to multiply to a titer of at least about 3.0 TCID₅₀/ml, and
- c) Harvest the avian reovirus.

Specifically, the avian reovirus belongs to an antigenic class of avian reovirus ERS isolates that:

Art Unit: 1648

- i. Induce antiserum in an animal, which antiserum causes a reduction of the plaques formed by avian reovirus ERS deposited at the ECACC under accession no. 99011475, of at least 75% in a plaque reduction assay, and
- ii. Positively react with polyclonal avian reovirus antiserum but not with monoclonal antibodies identified by ECACC accession nos. 99011472, 99011473 and 99011474.

Thompson's meeting abstract discloses the identification of an avian reovirus (associated with poult enteritis mortality syndrome) isolated from turkeys. The virus was called PEMS ARV and was found to replicate to high titers in Vero cells without prior adaptation. Thompson discloses that antiserum against reovirus reference strain S1133 fails to neutralize or fully recognize PEMS ARV. Thompson fails to disclose the instant invention because there are no details as to the "high titer" of reovirus observed. Further, Thompson fails to disclose the properties of the instant reoviruses that positively react with induce antiserum in an animal, which antiserum causes a reduction of the plaques formed by avian reovirus ERS deposited at the ECACC under accession no. 99011475, of at least 75% in a plaque reduction assay, and positively reacts with polyclonal avian reovirus antiserum but not with monoclonal antibodies identified by ECACC accession nos. 99011472, 99011473 and 99011474. Without further testing of the PEMS ARV, which is not publicly available, there is insufficient evidence to assert that the PEMS ARV is of the same antigenic class of reoviruses as those instantly claimed. Therefore, the claimed invention is patentable over the disclosure of Thompson.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 1648

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Claims 1, 4-6, 9-11 and 13-16 are allowable.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stacy B. Chen whose telephone number is 571-272-0896. The examiner can normally be reached on M-F (7:00-4:30). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Stacy B. Chen 2/27/07
STACY B. CHEN
PRIMARY EXAMINER